

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	No. 3:05-CR-5011
V.	)	(VARLAN/GUYTON)
	)	
BRIAN CASEY,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This cause came before the undersigned on January 9, 2007 for a hearing on the following pretrial motions filed by Defendant Casey:

- (1) *Pro Se* Motion For Detention Hearing [**Doc. 54**];
- (2) Motion To Reduce Bond, filed by Attorney Robert Vogel [**Doc. 55**];
- (3) *Pro Se* Motion To Dismiss Counsel For Ineffective Assistance Of Counsel [**Doc. 58**];
- (4) *Pro Se* Objections To Petition For Warrant [**Doc. 59**]; and
- (5) *Pro Se* Motion To Dismiss Petition For Warrant [**Doc. 64**].

Assistant United States Attorney Ed Schmutzer was present representing the government. Attorney Robert Vogel was present representing Defendant Casey, who was also present.

The Court first took up Defendant Casey's *Pro Se* Motion To Dismiss Counsel For Ineffective Assistance Of Counsel [Doc. 58] and conducted a sealed, *ex parte* hearing with Defendant and Mr. Vogel in order to determine the extent of any conflict between them. At this time, Defendant Casey made a request to withdraw said motion, indicating to the Court that he had resolved all issues with Mr. Vogel and, thus, wanted Mr. Vogel to continue to represent him in this matter. The government had no objection. Accordingly, in light of Defendant Casey's request to withdraw said motion, Defendant's *Pro Se* Motion To Dismiss Counsel For Ineffective Assistance Of Counsel [Doc. 58] is **DENIED as moot**.

Next, the Court took up Defendant's *Pro Se* Motion To Dismiss Petition For Warrant [Doc. 64] and his *Pro Se* Objections To Petition For Warrant [Doc. 59]. Noting that a revocation hearing is scheduled before District Court Judge Varlan on January 12, 2007, at 10:00 a.m., the Court finds that this is a matter best left to the discretion of the trial judge, who will take up the Petition For Warrant For Offender Under Supervision [Doc. 49] at the revocation hearing. Accordingly, the undersigned **DECLINES to rule upon** Defendant's motions [Docs. 59 and 64]. District Court Judge Varlan will take up and rule upon Defendant's motions at the revocation hearing, as he deems appropriate.

Finally, the Court took up Defendant's *Pro Se* Motion For Detention Hearing [Doc. 54] and his Motion To Reduce Bond, filed by Attorney Robert Vogel, [Doc. 55]. After defense counsel confirmed with the Court and the government that Defendant's revocation hearing was in fact scheduled for January 12, 2007, at 10:00 a.m. before District Court Judge Varlan, counsel stated that Defendant Casey wanted to withdraw his motions [Docs. 54 and 55] and, thus, waived the detention hearing for today and reserved the right to move for a detention hearing at a later date.

Accordingly, in light of Defendant Casey's request to withdraw said motions, Defendant's *Pro Se* Motion For Detention Hearing [**Doc. 54**] and his Motion To Reduce Bond [**Doc. 55**] are **DENIED as moot**.

Accordingly, it is **ORDERED**:

(1) Defendant Casey's *Pro Se* Motion To Dismiss Counsel For Ineffective Assistance Of Counsel [**Doc. 58**] is **DENIED as moot**;

(2) The undersigned **DECLINES to rule upon** Defendant's *Pro Se* Motion To Dismiss Petition For Warrant [**Doc. 64**] and his *Pro Se* Objections To Petition For Warrant [**Doc. 59**]. District Court Judge Varlan will take up and rule upon Defendant's motions at the January 12, 2007 revocation hearing, as he deems appropriate; and

(3) Defendant Casey's *Pro Se* Motion For Detention Hearing [**Doc. 54**] and his Motion To Reduce Bond [**Doc. 55**] are **DENIED as moot**.

**IT IS SO ORDERED.**

ENTER:

s/ H. Bruce Guyton  
United States Magistrate Judge